



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/696,538	10/25/2000	Timothy Redpath	20563-000100US	3091

42313 7590 02/07/2007  
JAY P. HENDRICKSON  
1010 B STREET  
SUITE 319  
SAN RAFAEL, CA 94901

EXAMINER
----------

DASS, HARISH T

ART UNIT	PAPER NUMBER
----------	--------------

3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/696,538

Applicant(s)

REDPATH ET AL.

Examiner

Harish T. Dass

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-9 are canceled.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically claim 10, lines 14-15 “, if needed, in order to earn money to provide the items of value” is not clear. Review of specification does not disclose this feature to be fully understood. Clarify this limitation and point out portion of the specification that explains this limitation clearly.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (APA), page 2 line 10 to page 3 line 13, especially page 2 line 21 & 27 in view of Shyla Sangaran, May 22, 2000 “Getting the fell of trading

Art Unit: 3693

stocks online", New Straits Times, Kuala Lumpur (hereinafter – Shyla) and Selleck (US 2001/0049651).

Re. Claim 10, APA discloses using the simulated trading system to, set up an account representing a predefined portfolio of nonzero value for each of a plurality of participants, each of the accounts having no actual monetary value; simulate trades by the plurality of participants; apply the simulated trades to the portfolios of the trader participants to thereby update the representative value of the predefined portfolio; based upon information about the simulated trades made by the plurality of participants. APA does not explicitly disclose award each participant an item of value in an amount having a monetary value that is a function of their respective portfolio's performance over an investment period; and using the actual trading system to

execute actual trades by the system operator, if needed, in order to earn money to provide the items of value.

However, Shyla discloses award each participant an item of value in an amount having a monetary value that is a function of their respective portfolio's performance over an investment period [see both pages] for letting the local investors to become members and have opportunity to experience buying and selling via Internet and win their portfolio value without risk at the end of week. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of APA and include award each participant an item of value, as disclosed by

Art Unit: 3693

Shyla, to encourage the member investors to use Internet and experience buying and selling virtual assets (virtual stocks without risk) and earn award (MR 10,000 cash).

Selleck discloses using the actual trading system to execute actual trades by the system operator, if needed, in order to earn money to provide the items of value

[Abstract; paragraphs 36, 64-65; 118; 106 – collecting fee is inherent in trading system such as membership fee, commission, trade fee (E-Trade) and similarly profit/loss] to provide Internet based trading service where the participants would be able to engage in simulated forum where they buy and sell stocks as pure simulation as well as actual trading of securities where the trading system operator (E-Trade) make money as well as the traders who make profit/loss. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosures of APA and Shyla and include using the actual trading system to execute actual trades by the system operator, if needed, in order to earn money to provide the items of value, as disclosed by Selleck, to provide a global trading system which includes an actual trading for buying and selling stocks (securities) as well as an option forum where the participants can use the simulated trading and determine rationally if trading in world markets is something that interests him/her before he or she puts out cash (reward money) and begins to trade.

Re. Claims 11-13, Shyla, further, discloses wherein the item of value is an amount awarded at the end of the investment period. APA, Shyla or Selleck does not explicitly disclose wherein the item of value is an amount awarded at the end of the investment

Art Unit: 3693

period that is equal to all of the representative net profits the participant simulated during the investment period, wherein the item of value is an amount awarded at the end of the investment period that is equal to all of the representative net profits the participant simulated during the investment period up to a predetermined maximum award and wherein the item of value is an amount awarded at the end of the investment period that is a percentage of less than 100% of the representative net profits the participant simulated during the investment period.

However these are business choices to encourage players (stock/security trading players) to become member and play the game of simulation more often, which benefits the internet web site to profit from membership and placement of advertisement.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosures of APA, Shyla and Selleck and include incentives, which encourage players to play more and in return benefits the simulator operator bottom line, more revenue from membership, pay to play, or advertisement.

Re. Claim 14, APA discloses the trades are not actually made and any simulated net profits that are paid out to users are funded by advertisement revenue and/or sponsorships.

APA, Shyla or Selleck does not explicitly disclose a step of offsetting risk to a system operator by one or more of sponsorships, advertising and participant fees. However, this is well known to professionals where magazines are given free and Internet service providers to offset the loss of membership (subscriber) fee with advertisement money.

For example, Netzero an Internet service provider does not charge member subscriber

Art Unit: 3693

a monthly fee to encourage more people to register with service provider where the members' monthly fees are offset by getting more advertisement money from advertisers. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosure of APA, Shyla and Selleck and encourage more investors to play the simulator to allow the owner of the simulator web site (online) to generate more advertising money which will offset the membership fee.

Re. Claim 16, Shyla further discloses wherein the actual trades having monetary consequences by the system operator are entirely based upon the simulated trades of the participants [see page 2 lines 3-4]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of APA and include wherein the actual trades having monetary consequences by the system operator are entirely based upon the simulated trades of the participants, as disclosed by Shyla, to encourage the member investors to use Internet and experience buying and selling assets at no risk and earn award.

Re. Claims 15, 17-18, the claims 15, 17-18 are substantially same as claim 16 and it would be obvious to on skill in the art to modify the teaching of the Shyla and select any amount for trading that is desired by the investor based on his/her financial goals.

***Response to Arguments***

3. Applicant's arguments filed 11/13/2006 have been fully considered but they are not persuasive. Because:

A.

In response to applicant's argument (page 4 item #3) in response to rejection under USC 112 (page 3, paper # 20060418) applicant provides part of the specification (page 6 lines 10-13) which suppose to explain (support) the rejected limitation.

Examiner does not agree with applicant that this paragraph (page 6 lines 10-13) explains (supports) the limitation. The rejection was for limitation of claim 10 line 12 "by a system operator to thereby earn money", not the Hedge operations server. With broadest interpretation, a system operator is an entity not a hedge serve, which is a computer hardware. How does computer hardware earn money?

Here is a copy of specification (page 6 2<sup>nd</sup> paragraph and see the underlines of lines 10-13) "Operations server 106 is coupled to hedge operations server 130 to send information about transactions being made by users, individually or in the aggregate, to allow hedge operations server 130 to generate requests for trades as needed to hedge risk of payouts for an investment program. Hedge operations server 130 is coupled to trading server 132 that executes trades with an exchange (not shown). Hedge operations server 130 is also coupled to a bank interface server 134 to effect funds transfers as needed to cover the trades made via trading server 132. Hedge operations server 130 can also be programmed to perform a full range of risk management techniques, including those currently in use for hedging, such as the use



of securities and derivatives. For example, hedge operations server 130 can be programmed to implement various and multiple investment strategies to neutralize or diminish possible liability and risk to the system operator as a result of investment selections made by members using the system investment simulator.

In response to applicant's argument (page 4 item #4) recites "The examiner contends that it would have been obvious at the time the invention ... Applicants respectfully disagree. There is nothing in either Shyla or Harrington which discloses that actual trading by a hedge operations server could be used to generate requests for trades as needed in order to hedge the risk of payouts to the participants of an investment program." that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies "actual trading by a hedge operations server" are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

1. In response to applicant's argument (page 5 item #4) recites there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

Art Unit: 3693

1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992) and *In re Kahn*. In this case (paper # 20060418), encourage the member investors to use Internet and experience buying and selling assets at no risk (without risk since it is a virtual stock) and earn award (RM 10,000 cash). Note, Shyla is a secondary reference.

B.

Additionally, applicant has amended the claims and therefore, applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3693

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harish T Dass *Harish T Dass*  
Examiner  
Art Unit 3693

1/29/07